

CRZ Notification 1991-2006

Saga of betrayal- Tamil Nadu & Pondicherry



CRZ Notification 1991 - 2006: saga of betrayal

A CHRONOLOGY of AMENDMENTS & EVENTS RELATED TO THE CRZ NOTIFICATION IN THE CONTEXT OF TAMIL NADU & PONDICHERRY

| Date of amendment/order/ event & legal clauses | Details / comments / features |
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| 31 st December 1992 | <ul style="list-style-type: none"> Intense pressure from hotel & tourism lobby on Govt. of India that the restrictions under CRZ severely limited their scope of work. As a consequence, the BB Vohra Committee set up by the Central Government to study the CRZ Notification and its implications and submitted its report with recommendations to Gol on December 31, 1992. S.O 690(E) Corrigendum dated 19th September 1994 rectified that the BB Vohra Committee was set up to look into 'tourism, and hotel facilities in the said zone' (i.e. CRZ) |
| 11 th November 1993 S.O. 859 (E) | <ul style="list-style-type: none"> Based on pressure from the tourism lobby, amendments were proposed to CRZ Notification A draft notification was issued inviting objections and suggestions from the public. |
| 18 th August 1994 later changed to 16 th August 1994 vide Corrigendum dated 19 th September 1994 S.O. 595 (E) EPA, 3(2)(v), 3(1) EP Rules 5(3)(a), 5(3)(d) | <ul style="list-style-type: none"> Amendment stated that HTL was to be demarcated by demarcating authority constituted by Gol in consultation with Surveyor General. Importantly, the resultant amendment, in clarifying the meaning of HTL: <ul style="list-style-type: none"> Significantly amended the mandatory CRZ of 100m for rivers, creeks, etc to 50m Gave expansive powers to Central Government, which could now grant permission for construction on the landward side within 200m from HTL (i.e. No Development Zone {NDZ}) according to its discretion. Did not allow for flattening of sand dunes while landscaping, but allowed live and barbed fencing and conditional construction of basements. Goal posts, net posts, lamp-posts were allowed. Basements were permitted subject to receipt of No Objection Certificate from State Ground Water Authority and provided it would not obstruct the free flow of ground water. Permitted plot falling in NDZ areas to be included for FSI calculation, although no construction would be permitted in NDZ. |
| 18 th April 1996 The Supreme Court's judgment in the Indian Council for Enviro Legal Action case: Writ Petition (Civil) 664 of 1993 I.A 19 of 1995 by The Goa Foundation, India Heritage Society (Goa chapter), Nirmal Vishwa. | <p>The SC dealt with two main contentions of the petitioner; that of non-implementation of the notification and the validity of the 1994 amendment.</p> <ul style="list-style-type: none"> The SC quashed 3 of the proposed amendments of August 1994: <ol style="list-style-type: none"> The relaxation of CRZ limits to 50m from 100m limit for rivers, creeks, etc. Unbridled power granted to the Central Government The area of NDZ to be taken into account while calculating FSI-FAR be 100 per cent. (FSI-FAR indexes, it was decreed, could take into account only 50 per cent of NDZ in its calculations.) |

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| <p>9th July 1997 S. O. No. 494(E) EPA 3(1), 3(2)(v), EP Rules 5 (3)(a), 5(4)</p> <p>29th December 1998 S.O 1122(E) EPA 3(1), 3(2)(v), EP Rules 5(3)(a), 5(4)</p> <p>Draft amendment dated 5th August 1999 S.O 692(E) EPA 3(1), 3(2)(v), 6</p> | <p>Regarding the Notification implementation, the Supreme Court:</p> <ol style="list-style-type: none"> 1. Pulled up enforcement authorities for dereliction of duties, while directing authorities to implement the Notification. The court further commented that a single authority may not be able to monitor the CRZ, and suggested the constitution of State and National Coastal Zone Management Authorities, which could also draw upon the resources of NGOs to help implement laws. 2. Ruled that CRZ for rivers be reinstated as a minimum of 100m in the absence of adequate justification to reduce it to 50m, and quashed the move to grant the Central Government arbitrary “unguided and uncanalised” powers to grant permissions for relaxation of NDZ limits. In addition, the court directed that CZMPs of all coastal states and union territories must be submitted by end June 1996, and set the date of hearing compliance of submission and finalisation regarding this for September 1996. 3. Directed that in matters dealing with local geographical areas, the High Court must see that the law is enforced and hear complaints made by local inhabitants. The Supreme Court would only scrutinise matters regarding approval of CZMPs, or any suggested modifications in existing classification of areas. 4. Issued show cause notices to the chief secretaries of states of Andhra Pradesh, Karnataka, Gujarat and Kerala for not having submitted their management plans as directed in interim orders issued earlier. 5. Finally, ruled that till the CZMPs are finalised, the interim orders mentioned above would continue to operate. <ul style="list-style-type: none"> • No objections were invited for this amendment. • The Court has issued no orders to date. • The rationale was that State Governments had expressed need for several essential facilities to be constructed in the coastal zones. • Several provisions of the amendment continue to be operative. • No objections were invited for this amendment. • The Central Government is said to have deliberated upon and decided to simplify procedure for demarcation of HTL, which it laid down in this notification • The HTL is defined as the line on land up to which the highest water line reaches during spring tide • The amendment lays down that HTL shall be demarcated uniformly in all parts of the country by demarcating authority or authorities so authorised by Central Government, in accordance with general guidelines issued in this regard. • However these have not been spelt out in the Notification. • Objections were invited to this amendment • The notification states that inhabitants of the CRZ area have faced difficulties and there is a need for infrastructure facilities along the coast |

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| <p>4th August 2000 S.O 730 (E) EPA 3(1), 3(2)(v), 6</p> <p>12th April 2001 S.O 329(E) EPA 3(1), 3(2)(v), EP Rules 5(3)(a), 5(4)</p> | <ul style="list-style-type: none"> • It sought once again to reduce CRZ for rivers, creeks and backwaters to 50m based on certain conditions. • It also stated that for permitted facilities for storage of petroleum products in Annexure - III, both MoEF and MoST were involved depending on location of project and port limits (port limits are those that have been notified as such before the 9th July 1997 amendment) • Facilities for receipt, storage and regasification of Liquefied Natural Gas were permitted according to guidelines issued by MoPNG and MoEF. • It permitted salt harvesting in CRZ-I areas between the LTL and HTL provided they were not classified as CRZ-I • It removed the authority for permitting construction along CRZ-III areas, which was introduced by the 9th July 1997 amendment. • Permission for construction required for 'local inhabitants' is to be granted by either the Centre or State or any designated authority (however it is not specified which of these is the final authority). The amendment lays down more conditions under which such construction maybe permitted. • Constructions in CRZ -III between 200-500m from HTL, were previously permitted for meeting traditional rights and customary uses. The words 'local inhabitants' have replaced the previous words 'traditional rights and customary uses'. The term local inhabitant used in this clause and elsewhere in the notification is defined as a person or his descendants who have been inhabiting in the area prior to the 19th February, 1991. • Relaxations were made for reconstruction / alteration of existing buildings allowing for horizontal landward extension of dwelling unit not exceeding a total plinth area of 100m. • It made 'exploration for extraction of oil and natural gas in CRZ a permissible activity requiring permission from the MoEF'. • The amendment is the final notification for 5th August 1999 draft amendment. • The amendment states that all objections and suggestions relating to oil and natural gas exploration; procedure for according clearance to storages of specified petroleum products and receipt, storage and regasification of LNG and points raised by the petitioner in Delhi High Court in civil writ petition No. 4198/98 have been duly considered by the Central Government • This final amendment to earlier draft retained only two of proposed changes and withdrew the rest. • The changes were ones related to para 2(ii) about facilities for receipt, storage and regasification of LNG, which was permitted according to guidelines issued by the MoPNG and MoEF and 3(2)(ii) about exploration for oil and gas in the CRZ. • No objections were invited for this amendment. • Projects of Department of Atomic Energy were exempted from prohibition. |

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| <p>11th January 2002 Draft amendment S.O 51(E) EPA 3(1), 3(2)(v), 6 EP Rules 5(3)(a),</p> | <ul style="list-style-type: none"> Facilities for receipt and storage of petroleum products and LNG as specified in Annexure III appended to the Notification and facilities for regasification of LNG were permitted provided certain guidelines were followed. The delegation of powers to accord clearances to MoST were withdrawn. Land reclamation etc was permitted for certain activities provided that reclamation for was not done for commercial purposes such as shopping and housing complexes, hotels and entertainment activities. Mining of sands, rocks and other substrata materials was permitted for exploration and extraction of oil and natural gas Construction activities related to projects of Department of Atomic Energy were treated as permissible activities requiring permission from the MoEF. Operational constructions for ports, harbours and light houses and constructions for activities such as jetties, wharves, quays and slipways, pipelines, conveying systems including transmission lines were also added to permissible activities needing MoEF clearances. Projects relating to Department of Atomic Energy and (b) Pipelines, conveying systems including transmission lines were permitted in CRZ-I (i) areas In the CRZ-I area, exploration and extraction of natural gas was permitted. The West Bengal CZMA was made responsible for according permission for construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants of the Sunderbans Biosphere Reserve The amendment permitted storage of petroleum products specified in the Annexure in any part of CRZ other than CRZ-I areas. Previously this was restricted only to port areas. LNG was added to list of petroleum products on Annexure III Environmental clearances accorded by MoST from 9th July 1997 till publication of this Notification are valid. All proposals for environmental clearance pending with MoST stand transferred to MoEF from date of publication of this Notification. The rationale for this amendment is stated to be: <ul style="list-style-type: none"> The inhabitants of areas falling within CRZ are facing difficulties and there is a need for infrastructural facilities in these areas. The Central Government is stated to have had consultations with state governments and taken a decision to permit construction of dwelling units and development of infrastructural facilities for local inhabitants; housing schemes of Urban Development Authorities which had been approved prior to 19th February 1991, facilities and activities including setting up of non polluting industries in the field of information technology and other service industries in the Special Economic Zones, and salt harvesting by solar evaporation of sea water in the said zone. It introduced a 90-day time limit for assessment of projects and 30 days for conveying a decision on the clearance status of projects proposed within the CRZ. |

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| <p>21st May 2002 S.O 550(E) EPA 3(1), 3(2)(v), EP Rules 5(3)</p> <p>19th October 2002 S.O 1100 (E) EPA 3(1), 3(2)(v), EP Rules 5(3)& (4)</p> | <ul style="list-style-type: none"> • It introduced the same provisions (with slight modifications) for the Note of Para I (i) of the notification that the 5th August 1999 draft amendment introduced. This was despite these proposed provisions of 5th August 1999 draft amendment being excluded in the subsequent amendments dated 4th August 2000 and 12th April 2001, and 3rd October 2001. • The draft amendment exempted “non polluting industries in the field of information technology and other service industries in the CRZ of Special Economic Zones” from prohibitions as Para 2 (i) (c). • It sought to exclude mining of certain minerals under Atomic Energy Act, 1962 from the prohibited activities clause, subject to EIA studies and an approved mining plan. • Housing schemes in CRZ area, mining of rare minerals and specified activities/ facilities in SEZ were to be permissible activities requiring clearances from MoEF • Salt harvesting by solar evaporation of sea water was to be permitted in CRZ-I areas • In CRZ-II areas, exemption was made for housing schemes of State Urban Development Authorities • Further relaxations were sought for CRZ-III areas, based on similar changes proposed in 5th August 1999 draft amendment. All activities within SEZs were permitted. • This amendment substitutes the words ‘local inhabitants’ for traditional rights or customary uses. • The notification replicates all other provisions of the 5th August 1999 draft amendment as far as relaxations for constructions for ‘local inhabitants’ etc are concerned despite most of these being omitted in subsequent final amendments. • The amendment is the final notification for the draft 11th Jan 2002 amendment. • It redefined distance upto which CRZ is measured along the rivers, creeks etc, as upto the point where a minimum salinity level of 5 ppt is recorded. • All the provisions that were common to the 5th August 1999 draft and the 11th January 2002 draft were struck down by this final amendment. • It permitted “non-polluting industries in the field of information technology and other service industries in CRZ of Special Economic Zones (SEZ)” • It retained the time limit on assessment of project documents that was proposed in the 11th January 2002 draft. • Certain changes were made to activities permitted in CRZ I, II & III zones. • No objections were invited for this amendment. It was issued in ‘public interest’ using Rule 5(4) of the EP Rules • Rationale was ‘to harmonise & elaborate provisions of the Notification’ and to provide permission for setting up of certain projects that were presumably in public interest. |

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| <p>22nd April 2003 S.O 460(E) EPA 3(2)(I), 3(2)(v) EP Rules 5(3), 5(4)</p> | <ul style="list-style-type: none"> It stated that clearances given for activities in CRZ area were valid for 5 years before which construction or operations should commence. However further actions have not been elaborated on, for instance, on adherence to clearance conditions. The following activities required MoEF clearances to be set up in CRZ areas: <ul style="list-style-type: none"> In CRZ-I areas installation of weather radar for monitoring of cyclone movement and prediction by Indian Meteorological Department was permitted. In the CRZ-I between HTL and LTL, the following was permitted: desalination plants, storage of non-hazardous cargo such as edible oil, fertilizers and food grain within notified ports. In CRZ II and III areas list of products in Annexure III was permitted subject to conditions mentioned in Para 2(ii). This amendment was issued using the public interest clause without inviting objections to the same. Rationale given by Central Government was that it had been informed that large sized projects were being implemented without clearance from MoEF and that this resulted in destruction of mangroves, depletion of ground water and certain other activities involving ecological damage. It sought to add a few more activities to list of permissible activities requiring environmental clearance from MoEF. There were: <ul style="list-style-type: none"> The demolition or reconstruction of buildings of archaeological or historical importance, heritage buildings and buildings under public use (defined in the amendment as including 'use for purposes of worship, education, medical care and cultural activities. All other activities involving an investment of less than five crore rupees were to be regulated by the State level authorities in keeping with provisions of the Notification in Annexure I; any project costing more than five crores required clearance from MoEF |
| <p>24th June 2003 S.O.725(E) EPA 3(1), 3(2)(v) EP Rules 5(3), 5(4)</p> | <ul style="list-style-type: none"> The notification introduced another clause under norms for development for CRZ IV <i>for setting up of facilities for treatment of wastes and effluents arising from hotels, beach resorts & domestic sewage and disposal of treated wastes and effluents in areas other than CRZ-I</i> This was to be based on a detailed scientific study to assess environmental impact of the same. This amendment was issued using the public interest clause without inviting objections to the same. |
| <p>24th July 2003 S.O.838 (E) EPA 3(2)(I), 3(2)(v) EP Rules 5(3), 5(4)</p> | <ul style="list-style-type: none"> The amendments were introduced by Central Government after it had considered specific requirements of projects relating to Department of Atomic Energy in terms of their location |

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Legend

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| 1. A&N | Andaman & Nicobar Islands | 14. LTL | Low Tide Line |
| 2. CPCB | Central Pollution Control Board | 15. m | metres |
| 3. CRZ | Coastal Regulation Zone | 16. MoEF | Ministry Of Environment And Forests |
| 4. CZMA | Coastal Zone Management Authority | 17. MoPNG | Ministry of Petroleum & Natural Gas |
| 5. CZMP | Coastal Zone Management Plan | 18. MoST | Ministry of Surface Transport |
| 6. EIA | Environment Impact Assessment | 19. NDZ | No Development Zone |
| 7. EP Rules | Environment (Protection) Rules | 20. NOC | No Objection Certificate |
| 8. EPA | Environment (Protection) Act (1986) | 21. SC | Supreme Court |
| 9. GoI | Government of India | 22. SCC | Supreme Court Cases |
| 10. HC | High Court | 23. SEZ | Special Economic Zone |
| 11. HTL | High Tide Line | 24. SPCB | State Pollution Control Board |
| 12. ICZMP | Integrated Coastal Zone Management Plan | 25. UoI | Union of India |
| 13. LNG | Liquefied Natural Gas | 26. WP | Writ Petition |

Analysis of amendments made to the CRZ Notification:

1 Reduction in the No-Development Zone for promotion of tourism

- The first amendment to the Notification was made because of pressure from the tourism lobby.
- The amendment was vide notification no. **S.O. 595(E) dated 18th Aug 1994** on recommendations of the Vohra Committee, which was constituted on 1st Jan 1992 and report submitted on 31st Dec 1992. The issue dealt with was tourism. The reason for the constitution of the committee was that there was intense pressure from the hotel and tourism lobby on the GOI stating that the said notification was very stringent and their work was severely restricted by the CRZ.
- One of the recommendations of the Committee was reduction of distance of the NDZ in selected coastal stretches for promoting tourism. The Ministry amended the CRZ Notification, 1991 on 18th Aug 1994, reducing No Development Zone (NDZ) area all along the coast from 200m to 50m.

The amendment also permitted construction in NDZ thus giving expansive powers to the central government to permit such constructions on the landward side within 200m from the HTL according to its discretion.

- Although the SC quashed the amendments later, the tendency of MoEF to dilute its own laws raises concerns about where its loyalties lie – a facilitator of impact inducing developments rather than that of a regulator.
- The NDZ reduction was eventually reduced to 50m in the case of A&N Islands and Lakshadweep for tourism development through amendment of amendment, **S.O.838 (E)**, 24th July 2003 against the directives of SC in 2002, which were based on Shekhar Singh Committee report. The relaxation was based on identification of areas in NDZ by the Integrated Coastal Zone Management Plan study conducted by the MoEF. A similar procedure may be adopted by the MoEF in the future for areas on the mainland so that the tourism industry can be given open access to coastal areas – this is an area to watch out for in the near future.

2 Demarcation of High Tide Line

- S.O 1122(E) dated 29th December 1998 only gave the definition of the HTL and stated that it will be marked by an authority. It is surprising that 7 years after the Notification was issued, the central government did not specify which authority and did not provide guidelines for marking the HTL. The HTL has not been marked to date.

3 Construction for petroleum storage to be allowed in CRZ II & III

- S.O 730 (E) dated 4th August 2000 permitted storage of petroleum and its products thereby posing a threat to coastal environment. This also meant allowing construction in these areas including the NDZ.

4 Exploration of oil and natural gas allowed

- The amendment no. S.O 730 (E) dated 4th August 2000 gave a blanket allowance of oil and natural gas exploration could take place on an extensive basis in CRZ. It could trigger off land acquisition process by government, following which there can be changes in land use. Mining in CRZ areas, including CRZ-I has also been permitted by amendment no. S.O 329(E) dated 12th April 2001. While the need is important, it is equally important to ensure certain safeguards for environmental protection which the CRZ Notification has not specified clearly.

5 Land reclamation allowed

- Amendment no. S.O 329(E) dated 12th April 2001 allowed reclamation of land for 'certain activities', which have not been defined. However, reclamation for commercial purposes has been prohibited. There is ambiguity in the term 'certain activities' that could still lead to unwanted impacts on coastal ecosystems.

6 Setting up of non-polluting industries in field of IT and other service industries in Special Economic Zones

- Amendment no. S.O 550(E) dated 21st May 2002, by allowing such 'service industries', only opened up the CRZ areas for resource intensive and negatively impacting activities like tourism.

SEZs have been controversial because of the status they enjoy, especially exemption from environmental norms. The process of demarcating SEZs has also been undemocratic in nature. Hence the CRZ only legitimises such negatively impacting activities if they come in protection of SEZ.

- There are positive sides to the CRZ Notification too, e.g. classifying CRZ to include rivers, creeks etc, upto the point where a minimum salinity level of 5 ppt is recorded, and for the first time in history of CRZ, the clause of Environment Protection Rules 5(4) have been used to actually prevent further ecological damage, unlike earlier instances where the same clause has been used to relax provisions of the Notification and allowing more and more activities on coasts. But where the Notification fails miserably is in its poor implementation by state governments & union territories. It has also been interpreted inconsistently due to many of its provisions that are ambiguous and incomplete, like lack of guidelines for demarcating HTL. One glaring aspect is that the Ministry of Environment & Forests has succumbed to the development lobby, first from tourism and later others. It has frequently sought, and actually managed, to dilute it. It has rendered the CRZ Notification an instrument to plan and execute developmental activities rather than protect the highly pressurised coastal systems.
- As this briefing paper goes to press, The Hindu has reported on 12 March 2006 that the CRZ is to be replaced by a Coastal Zone Management Plan. Our question to the Ministry of Environment & Forests is: how can a management plan replace a regulatory legal instrument? The time has come to revive the campaign to protect our coasts.



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EQUATIONS

415, 2-C Cross, 4th Main, OMBR Layout,
Banaswadi, Bangalore 560043, INDIA

Ph: +91-80-25457607 / 25457659 Fax: +91-80-25457665
info@equitabletourism.org www.equitabletourism.org